

**AGENDA SUMMARY PAGE - PLANNING & DEVELOPMENT**  
**PLANNING COMMISSION MEETING OF: JANUARY 22, 2009**

**DEPARTMENT: PLANNING & DEVELOPMENT**

**DIRECTOR: M. MARGO WHEELER**

☐ Consent ☒ Discussion

**SUBJECT:**

**VAR-32448 - VARIANCE - PUBLIC HEARING - APPLICANT/OWNER: O & A PROPERTIES, LLC** - Request for a Variance TO ALLOW A BUILDING SETBACK OF 43 FEET WHERE RESIDENTIAL ADJACENCY STANDARDS REQUIRE 96 FEET; A FIVE-FOOT FRONT YARD SETBACK WHERE 25 FEET IS REQUIRED; AND A SEVEN-FOOT CORNER SIDE SETBACK WHERE 15 FEET IS REQUIRED on 0.16 acres at 1141 South Maryland Parkway (APN 162-02-115-134), C-D (Designed Commercial) Zone, Ward 3 (Reese)

**C.C.: 02/18/2009**

**PROTESTS RECEIVED BEFORE:**

**Planning Commission Mtg.**

**4**

**City Council Meeting**

**0**

**APPROVALS RECEIVED BEFORE:**

**Planning Commission Mtg.**

**2**

**City Council Meeting**

**0**

**RECOMMENDATION:**

**DENIAL**

**BACKUP DOCUMENTATION:**

1. Location and Aerial Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photos
5. Justification Letter
6. Protest/Support Postcards
7. Submitted after Final Agenda – Protest/Support Postcards

Motion made by VICKI QUINN to Approve subject to conditions

Passed For: 4; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 2

VICKI QUINN, BYRON GOYNES, GLENN TROWBRIDGE, RICHARD TRUESDELL;  
(Against-None); (Abstain-None); (Did Not Vote-None); (Excused-STEVEN EVANS, KEEN ELLSWORTH)

Minutes:

CHAIR TROWBRIDGE declared the Public Hearing open for Items 48 and 49.

DOUG RANKIN, Planning and Development Department, stated that the required Variance is a self-imposed hardship; therefore, staff cannot support the waivers and recommended denial of both applications.

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DAVID ELLERSTEN, 103 East Charleston Boulevard, appeared with developers and applicants, ORLANDO and ALEX CASTOVERDE. MR. ELLERSTEN stated that this is an unusual site relative to its shape and the required setbacks. The applicants' father has operated a law firm over 15 years and in the last three years the building was not in the best of shape. They have invested personal monies to improve the building and create a home for their law firm. They also purchased the property to the north and intend to enlarge their home to create a campus atmosphere and refresh the area. At the suggestion of COUNCILMAN REESE, the applicant met with OWEN MESSENGER, who supports the project. The parking is located in the rear and meets the requirements and the building has been moved to the front as much as possible.

MR. ELLERSTEN discussed Condition 13 of Item 49, which requires downward lighting. It has been their experience that upward lighting provides sufficient security and reduces graffiti. He asked that the lighting be directed upward and not towards the residents. MR. RANKIN explained that the goal of Title 19.08 is to protect residential properties. If the lighting points upward and is shielded, he does not believe there would be an issue with Title 19.08. MARGO WHEELER, Director of Planning and Development, read into the record the amendment to Condition 13 of Item 49.

COMMISSIONER GOYNES verified with MR. ELLERSTEN that the height of the building is 32 feet and the existing building is approximately 19 feet. He discussed with COMMISSIONER QUINN about the landscaping and stated that Francis Avenue is not developed to its full right-of-way capacity, giving them 12 feet of landscaping along Francis Avenue. He added that trees will not cause visibility issues for people accessing Maryland Parkway.

CHAIR TROWBRIDGE declared the Public Hearing closed for Items 48 and 49.